

REMARKS

Claims 1-21 and 23-35 are pending at the time of this action. Applicant has amended claims 1, 2, and 4. Reconsideration and allowance of the above-referenced application are respectfully requested.

Rejection of Claims 11-35 under 35 U.S.C. §103 in view of Aklog and Macoviak

The examiner rejected claims 11-35 under 35 U.S.C. §103(a) as allegedly being unpatentable over Aklog (US Patent Application 2005/0004665) in view of Macoviak (US Patent Application 20040138745). However, neither Aklog or Macoviak are prior art to the current application as both were filed after the priority date of the current application. The current application is a continuation of U.S. Patent Application No. 09/544,930, filed April 7, 2000. Aklog was filed on July 2, 2003. Macoviak is continuation of a PCT application filed on October 1, 2002, which claims priority to a U.S. Provisional Application filed on October 1, 2001. Thus, neither Aklog or Macoviak is prior art to the current application under 35 U.S.C. §103. Applicant respectfully submits that the rejection of claims 11-35 in view of Aklog and Macoviak should be withdrawn.

Applicant notes that the examiner has withdrawn the rejection of claims 11-35 cited in the previous office action of May 16, 2006. Moreover, the examiner has not made any additional rejections of claims 11-35 other than the rejection in view of Aklog and Macoviak. Accordingly, claims 11-35 should be in condition for allowance.

Rejection of Claims 1, 4, and 6-10 under 35 U.S.C. §102

Claims 1, 4, and 6-10 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by US Patent Number 6,269,819 to Oz. However, Oz fails to disclose or suggest every element of the claims.

For example, Oz fails to disclose or suggest the combination of deploying a first structure from a catheter on or near the annulus of a heart valve and deploying a second structure that holds leaflets of the heart valve together so as to reduce regurgitation in the heart valve, as recited in claim 1. Oz discloses using a structure (e.g., a grasper) to hold the leaflets together but

fails to disclose deploying a structure from a catheter on or near the annulus of a heart valve. Oz makes no mention whatsoever of deploying a structure on or near the annulus of a heart valve. Indeed, applicant respectfully submits that the examiner has failed to cite any portion of Oz that discloses deploying a first structure from a catheter on or near the annulus of a heart valve in combination with deploying a second structure that holds leaflets of the heart valve together.

In view of the foregoing, applicant respectfully submits that the rejection of claim 1 under 35 U.S.C. §102(e) should be withdrawn. Claims 4 and 6-10 all depend from claim 1 and are patentable over the prior art for at least those reasons articulated with respect to claim 1, as well as on their own merit.

For example, claim 4 recites deploying the first structure such that the first structure mounts onto on an atrial side of the annulus. Oz does not disclose deploying a structure that mounts onto the annulus much less a structure that mounts onto an atrial side of the annulus. The examiner cited Oz at column 7, lines 51-58 in rejecting claim 4. However, the cited section of Oz fails to disclose deploying a structure such that the structure mounts onto on an atrial side of the annulus. To the contrary, the cited section of Oz describes a technique wherein the grasper enters the atrium via an atrial stab incision, crosses the valve into the ventricle, then reverts back toward the valve while in the ventricle. A suturing device is then applied to the leaflets "just as in the transventricular approach", which means that the suturing device attaches to the leaflets in the ventricle, not in the atrium. Thus, Oz fails to disclose deploying a structure such that the structure mounts onto on an atrial side of the annulus.

With respect to claim 8, the examiner asserted that "it is known that chordae are part of the leaflets, therefore the opposed chordae are linked when the opposed leaflets are attached." Applicant disagrees. The chordae are distinct anatomical structures relative to the mitral valve flaps or leaflets.

Rejection of Claims 1, 4, and 6-10 under 35 U.S.C. §102

Claims 2, 3, and 5 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Oz in view of US Patent Number 6,143,024 to Campbell. Applicants respectfully traverse this rejection. As discussed above, claim 1 recites features that are neither

taught nor suggested by Oz. Claims 2, 3, add 5 all depend from claim 1 and are patentable over the prior art for at least those reasons articulated with respect to claim 1 and discussed in the prior response to office action, as well as on their own merit.

Conclusion

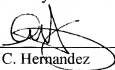
It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

In view of the amendments and remarks herein, Applicants believe that Claims 1-21 and 23-35 are in condition for allowance and ask that these pending claims be allowed. The foregoing comments made with respect to the positions taken by the Examiner are not to be construed as acquiescence with other positions of the Examiner that have not been explicitly contested. Accordingly, the arguments for patentability of a claim should not be construed as implying that there are not other valid reasons for patentability of that claim or other claims.

Please apply any required charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: February 23, 2007



Fred C. Hernandez
Reg. No. 41,832

PTO Customer No.: 20985

Fish & Richardson P.C.
12390 El Camino Real
San Diego, California 92130
Telephone: (858) 678-5625
Facsimile: (202) 626-7796
Email: fherandez@fr.com
10711719.doc